

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Patent of:

Hampden-Smith et al.

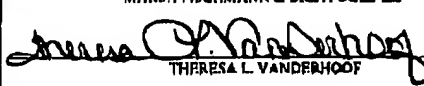
Serial No.: 09/751,341

Filed: December 29, 2000

Atty. File No.: 41890-01280

For: "CATHODOLUMINESCENT
PHOSPHOR POWDERS, METHODS FOR
MAKING PHOSPHOR POWDERS AND
DEVICES INCORPORATING SAME"

PETITION UNDER 37 C.F.R. § 1.181

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| CERTIFICATE OF FACSIMILE TRANSMISSION |
| I HEREBY CERTIFICATE THAT THIS PAPER IS BEING FACSIMILE TRANSMITTED TO FAX NUMBER 703-308-6016 TO THE PATENT AND TRADEMARK OFFICE ON <u>March 9, 2001</u> |
| MARSH FISCHMANN & BREYFOGLE LLP |
|  THERESA L. VANDERHOOF |

Assistant Commissioner for Patents
Washington, D.C. 20231
Attn: Office of Petitions

FAX RECEIVED

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PETITIONS OFFICE

Dear Sir:

Applicants, through their attorneys, respectfully submit this Petition under to 37 C.F.R. § 1.181 in response to the United States Patent and Trademark Office (hereinafter "USPTO") finding that pages 78, 82, 85, and 99, and figures 6 and 7 were missing from the above identified application when the application was filed on December 29, 2000. Applicants respectfully submit that the allegedly missing pages were in fact filed with the application. In support of this Petition, undersigned attorney offers the following:

1. On December 29, 2000, the above-identified Application, a Utility Patent Application Transmittal (Large Entity), a Postcard Receipt, and a Declaration were placed in an express mail envelope and submitted to the USPTO.
2. The USPTO received the above-identified application and date stamped the Postcard Receipt (Exhibit A).

07/18/2001 LGIBBS 00000017 501419 09751341

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3. On January 26, 2001, a NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION (Exhibit B) was received. The Notice identified several pages and two figures that appeared to be missing, namely pages 78, 82, 85, and 99, and figures 6 and 7.

4. The date stamped Postcard Receipt clearly itemizes and properly identifies the number of pages of the specification (108), number of sheets of drawings (35), and total number of pages included in the application (143) filed with the USPTO.

5. Additionally, the Postcard Receipt does not reflect any corrections, additions, or deletions.

6. Pursuant to MPEP 503, a Postcard Receipt, which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO.

7. Therefore, the Postcard Receipt serves as prima facie evidence that the allegedly missing pages and figures were in fact filed with the application.

8. Exhibit C is an affidavit from undersigned attorney attesting that the number of pages submitted as the specification, the number of sheets of drawings, and the total number of pages of the application were itemized and properly identified on the Postcard Receipt.

In view of the foregoing, Applicants respectfully request the Commissioner grant this Petition and accord the whole application the correct filing date of December 29, 2000. In the event that the USPTO has misplaced the pages referred to, Applicants will provide copies thereof.

The Office of Petitions is cordially invited to contact the Applicant's undersigned representative with any questions or comments relating to this Petition. Please debit the petition fee of \$130.00, as dictated by 37 CFR 1.17(i) from, and credit any refund to, Deposit Account No. 50-1419.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

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Date: March 9, 2001